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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/710,162	11/10/2000	Richard M. Onyon	FUSN 1-01008US0	4588

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VIERRA MAGEN MARCUS & DENIRO LLP  
575 MARKET STREET SUITE 2500  
SAN FRANCISCO, CA 94105

EXAMINER
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PATEL, HARESH N

ART UNIT	PAPER NUMBER
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2154

DATE MAILED: 02/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

09/710,162

Applicant(s)

ONYON ET AL.

Examiner

Haresh Patel

Art Unit

2154

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 03 January 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: None.  
Claim(s) objected to: None.  
Claim(s) rejected: 1-10, 27-33 and 38.  
Claim(s) withdrawn from consideration: None.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

  
JOHN FOLLANSBEE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100

Continuation of 11. does NOT place the application in condition for allowance because: the cited prior arts still render the claims unpatentable and the final rejection is deemed proper. Also, page 32, lines 13 - 16, states "The many features and advantages of the present invention will be apparent to one of average skill in the art. All such features and advantages are intended to be within the scope of the invention as defined by the above specification and the following claims". Since, applicant's claims contain broadly claimed subject matter it clearly reads upon the examiner's interpretation of the claimed subject matter.

Applicant argues (1), "the cited reference, Hertzog et al. US 2003/0069874 A1, April 10, 2003 (Hereinafter Hertzog) does not disclose, teach, or suggest the applicant's claimed invention that discloses a system where synchronization is accomplished by only transmitting difference information in a differencing transaction, the generic output of the application object is provided to a delta module, convert the data of each application in the device to a universal data format, the difference information is forwarded to the encryption and compression routines for output to the storage server in the form of a data package".

The examiner respectfully disagrees in response to applicant's arguments. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies, "a system where synchronization is accomplished by only transmitting difference information in a differencing transaction, the generic output of the application object is provided to a delta module, convert the data of each application in the device to a universal data format, the difference information is forwarded to the encryption and compression routines for output to the storage server in the form of a data package", are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). What is claimed is, "transferring at least a portion of the media from the personal information space to the network coupled apparatus in a differencing transaction in response to a user request" (please see claim 1). Contrary to applicant's assertion, Hertzog discloses limitations, transferring at least a portion of the media (e.g., figure 1, abstract) from the personal information space (e.g., col., 3, paragraph 46) to the network coupled apparatus (e.g., col., 3, paragraph 46) in a differencing transaction in response to a user request (e.g., col., 3, paragraphs 42 - 49). Note: As applicant requested, the citations of the reference is provided. However, examiner has cited particular columns and line numbers and/or paragraphs and/or sections and/or page numbers in the reference(s) as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety, as potentially teaching, all or part of the claimed invention, as well as the context of the passage, as taught by the prior art or disclosed by the Examiner. The claim is open-ended (comprising), and page 32, lines 13-16 of the specification, clearly states, "The many features and advantages of the present invention will be apparent to one of average skill in the art. All such features and advantages are intended to be within the scope of the invention as defined by the above specification and the following claims". Since, applicant's claims contain broadly claimed subject matter, it clearly reads upon the examiner's interpretation of the claimed subject matter.

Further, contrary to applicant's assertion (applicant's remark, dated 1/3/2006, page 6) that page 25, line 17 defines, "differencing transaction"; the applicant cited portion of the specification at most describes differences in data between two entities or difference information, which "differencing transaction" is not limited to, as asserted by the applicant.

Therefore, the rejection is maintained.

Applicant argues (2), "combined teachings of the cited references do not disclose, teach, or suggest the applicant's claimed invention that discloses the digital media is mapped into a temporary, "universal" data structure, that is not dedicated to a particular proprietary application, by connecting to the application via any number of standard interfaces to gain access to the applications data and puts the data in a generic or universal data format to generate data packets for provision to the storage server".

The examiner respectfully disagrees in response to applicant's arguments. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies, "the digital media is mapped into a temporary, "universal" data structure, that is not dedicated to a particular proprietary application, by connecting to the application via any number of standard interfaces to gain access to the applications data and puts the data in a generic or universal data format to generate data packets for provision to the storage server", are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). What is claimed is, "a device engine including an application object for mapping the digital media into a temporary data structure". Contrary to applicant's assertion, Hertzog clearly teaches a personal information store containing digital multimedia data (e.g., server farm containing server with user specific digital photograph information, col., 3, paragraphs 42 - 49), a data transfer request initiator coupled to the personal information store (e.g., service module to handle user specific information, col., 3, paragraphs 42 - 49), and a device engine operatively coupled to the data transfer request initiator and responsive to the initiator to transfer digital media between the store and one of said plurality of network coupled devices (e.g., service module, synchronization engine responsible for synchronizing information maintained in the local database with information maintained on a remote database accessible via the network, col., 3, paragraph 46), the device including software (e.g., col., 3, paragraph 46). Contrary to applicant's assertion, Ludwig discloses the well-known concept of an application object for mapping the digital media into data storage (e.g., col., 31, lines 5 - 34). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine teachings of Hertzog with the teachings of Ludwig in order to facilitate an application object for mapping the digital media into data storage because the mapping would help provide synchronize information. Handling the information would provide support to the user for accessing software on the computer. Contrary to applicant's assertion, Cantin discloses the well-known concept of storage being temporary data structure (e.g., col., 4, lines 31 - 40). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine teachings of Hertzog and

Ludwig with the teachings of Cantin in order to facilitate usage of temporary data structure because the data structure would help store temporary information. The data structure would help handle the information that provides support to the user for accessing software on the computer. The software on the computer would help process information for the user. Contrary's to applicant's assertion, combined teachings of Hertzog, Ludwig and Cantin disclose all the claimed limitations. Therefore, the rejection is maintained.